

REMARKS

Claims 11, 14, and 21-26 were pending in the application. Claims 11, 21, and 22 have been amended and new claims 27-33 have been added. Accordingly, following entry of the amendments presented herein, claims 11, 14, 21-33 will be pending. For the Examiners convenience, all of these claims are presented above. Applicants also thank the Examiner for the courtesy of a telephonic interview on May 25, 2005 during which the foregoing rejections of the pending claims and the amendments presented herein were discussed.

Claim 11 has been amended to specify that the recited composition contains a *cranberry extract enriched* for an anti-cancer or anti-hypercholesterolemia compound in a therapeutically effective amount to prevent or treat a cancer or hypercholesterolemia. Claims 21 and 22 have been amended to depend from claim 11. Newly added claims 27-33 are directed to cranberry extracts enriched for one or more anti-cancer or anti-hypercholesterolemia compounds, and foodstuffs, supplements, and pharmaceuticals comprising the same. Support for the amendments and newly added claims can be found throughout the specification, and in particular, at page 2, lines 10-26; page 8, lines 3-25; page 25, line 17 to page 27, line 23; Examples 1-5, and in the claims as originally filed. No new matter has been added to the application by way of this amendment.

The foregoing claim amendments have been made solely for the purpose of expediting prosecution of the present application and should in no way be construed as an acquiescence to any of the Examiner's rejections in this or in any former Office Action issued in the present application. Applicants reserve the right to pursue the subject matter of the present claims prior to being amended herein in this application or in another related application.

In view of the foregoing claim amendments and the arguments set forth below, Applicants respectfully submit that the claims are now in condition for allowance.

Rejection of Claims 11, 14, and 21-26 Under 35 U.S.C. §102(e)

The Examiner rejects claims 11, 14, and 21-26 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,261,565 B1 (hereafter "the '565 patent"). The Examiner characterizes the '565 patent as teaching "a composition that comprises a cinnamic acid (see claim 20)...for treating cancer and high cholesterol (see claim 53)," thereby resulting in a composition having the same characteristics as the claimed invention.

Applicants respectfully disagree. As amended, the present claims are drawn to compositions comprising *a cranberry extract enriched for a compound* selected from a specific group which includes cinnamic acid, in a form suitable and in an amount effective to prevent or

treat a cancer or hypercholesterolemia. The claims are further drawn to a foodstuff (and dietary supplements) comprising a cranberry extract enriched for such compounds. Newly added claims are drawn to cranberry extracts enriched for one or more compounds in therapeutically effective amounts for preventing or treating cancer or hypercholesterolemia. Indeed, one highly desirable feature of the claimed extracts is that they are especially well suited for use in food or pharmaceutical applications.

In contrast, the '545 patent merely identifies cinnamic acid as a potential compound for treating a cancer or hypercholesterolemia. Indeed, the '545 patent is solely directed to compounds extracted from soy, clover, alfalfa, flax, cocoa, tea, and kudzu (col. 4, lines 16-19). The '545 patent makes no mention of cranberry extracts, cranberry as a plant source, nor teach or suggest a foodstuff, dietary supplement, or pharmaceutical derived from cranberry.

Accordingly, because the '545 patent fails to teach a composition or a foodstuff having the features of the claimed invention, *i.e.*, a composition that comprises a cranberry extract enriched for a therapeutically effective compound, Applicants respectfully request that the rejection under 35 U.S.C. §102(e), be withdrawn.

CONCLUSION

In view of the foregoing, entry of the amendments and remarks herein, reconsideration and withdrawal of all rejections, and allowance of the instant application with all pending claims are respectfully solicited. If a telephone conversation with Applicants' attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call Applicants' attorney at (617) 227-7400.

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Respectfully submitted,

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